

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

COMPLETE TITLE OF CASE:

STATE OF MISSOURI,

Respondent

v.

KAREN DIANE CUMMINGS.

Appellant

DOCKET NUMBER WD79288

**MISSOURI COURT OF APPEALS
WESTERN DISTRICT**

DATE: March 28, 2017

Appeal From:

Circuit Court of Johnson County, MO
The Honorable R. Michael Wagner, Judge

Appellate Judges:

Division One
James Edward Welsh, P.J., Anthony Rex Gabbert, and Edward R. Ardini, Jr., JJ.

Attorneys:

John Bragg, Independence, MO

Counsel for Appellant

Attorneys:

Rachel Flaster, Jefferson City, MO

Counsel for Respondent

**MISSOURI APPELLATE COURT OPINION SUMMARY
MISSOURI COURT OF APPEALS, WESTERN DISTRICT**

**STATE OF MISSOURI, Respondent, v.
KAREN DIANE CUMMINGS, Appellant**

WD79288

Johnson County

Before Division One Judges: Welsh, P.J., Gabbert, and Ardini, JJ.

Karen Diane Cummings appeals her conviction, after a jury trial, of one count of the class D felony of unlawful use of a weapon, in violation of section 571.030.1(4) RSMo, by knowingly exhibiting, in the presence of one or more persons, a weapon readily capable of lethal use, in an angry or threatening manner.

Affirmed.

Division One holds:

The circuit court did not err in convicting Cummings or in rejecting the claims in her motion for new trial. (1) The court did not err in rejecting her claim that the jury's mere inquiry as to whether Cummings had a conceal and carry permit established jury misconduct and, thus, necessitated a new trial. (2) The circuit court did not err in instructing the jury on "defense of another" because the justification defense was supported by substantial evidence, and failure to submit it would have constituted reversible error. (3) The court did not err in rejecting the claim that "the verdict was against the weight of the evidence" because an appellate court cannot reverse a defendant's conviction on that basis.

Opinion by James Edward Welsh, Presiding Judge

March 28, 2017

* * * * *

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.
--